

### **REMARKS**

The Applicants have now had an opportunity to carefully consider the comments set forth in the Office Action that was mailed November 16, 2011. It is noted that the Applicants are surprised and disappointed that the present rejections are being maintained even in light of the remarks presented in applicants Response H, which was filed on or about September 7, 2011, as well as the previously summarized Telephone Interviews and exchange of e-mails that occurred on or about and between May 26 and June 2, 2011.

The Applicants gratefully acknowledged the "Response to Arguments" portion of the present Office Action. However, it is respectfully submitted that the "Response to Arguments" highlights the impermissible "gist" type reasoning that the Office is applying (contrary to MPEP §2141.02 (II)), which in turn is leading the Office to overlook the fact that the cited document does not disclose every element of the claims "arranged as required by the claim", as required by MPEP §2131, as well as other clear errors of the Office Action.

Accordingly, all of the rejections are respectfully traversed. Re-examination and reconsideration of the application are respectfully requested.

### **The Office Action**

In the Office Action that was mailed November 16, 2011:

**claims 26 – 44** were rejected under 35 USC §102(e) as allegedly being anticipated by US Patent Number 7,111,304 to Hand et al. ("Hand").

### **The Present Application**

By way of brief review, the present application is directed toward a system for remotely supporting a family of products even when the products are deployed in the field.

For example, as recited in independent **claim 36**, embodiments include a system for remotely supporting a family of document processing products even when the document processing products are deployed in the field. The system provides for an

**interchangeable device model.** For example, **each device model** (122, 123) provides the system with information regarding classes of information that can be communicated to and from a respective product of the family of products. Additionally, a respective device model includes at least identifications of classes of information that can be communicated to and/or from each of the products of the family of products. In this regard, it is noted that the Office Action refers to the Object Oriented Programming (OOP) use of the term "classes" in the cited documents and not to a discussion of classes of **information**.

Further according to, for example, **claim 36**, a device model agent is operative to use information in the device model to provide communication services between a respective unit associated with the device model and other system elements, such as a services host server. Unlike the system of the cited document, in the system of the present application, the device model agent (or software therefor) can be reused in a wide variety of products or in association therewith. A device model can be customized on a device type-by-device type basis. **Accordingly**, the system can support a broad family of products without the need to write and/or update custom communication code in association with each product. Instead, all that need be provided for the system to support a new or revised product is to provide new or revised device information in a device model. The device **model** can then be read by the device model agent and information therefrom can be used by the agent to configure or customize itself for that product.

### **The Cited Document**

As indicated above, in **stark contrast**, instead of providing for a reusable device model agent that avoids the need to write custom communication code for each new product, the cited document to **Hand** discusses methods and systems that feature the requirement to write custom communication code for each new device (e.g., see the cited "device specific modules" of cited column 4, lines 31 – 40, and line 38 in particular; column 5, lines 10 – 21).

Where the methods and systems of the **present application** call for a **reusable device model agent** to simply read customizing information from a device specific

**interchangeable device model**, the methods and systems of Hand require that device specific application program interfaces (API) be written.

### **Reply to Response to Arguments**

Pages 11 – 16 of the present Office Action included a section titled, "Response to Arguments", which includes a discussion of at least some of the arguments presented in "Response H", filed by the applicants on or about September 7, 2011. It is respectfully submitted that the "Response to Arguments" highlights the **impermissible "gist"** type reasoning that the Office is applying (**contrary to MPEP §2141.02 (II)**), which in turn is leading the Office to **overlook** the fact that the cited document does not disclose **every** element of the claims "arranged as required by the claim", **as required by MPEP §2131**, as well as other clear errors of the Office Action.

In apparent response to arguments that bridge pages 3 and 4 of Response H, page 11 of the Office Action distills those arguments down to a gist and characterizes them as an argument that "Hand does not disclose identification or classes of information". **However**, it is respectfully submitted that the subject arguments includes the assertion that Hand does not disclose an interchangeable device model that includes *inter alia*: identifications of classes of information and that what Hand discusses is the instantiation of instances of classes in the object oriented programming sense and not a mechanism providing information regarding available classes of information.

The next paragraph of the "Response to Arguments" addresses recitation indicating that the device model includes mapping information or "mappings" indicating how the classes of information can be communicated to and/or from a first product. In this regard, the Office Action repeats citations to column 5, lines 18 – 21. It is respectfully submitted that this citation highlights the **impermissible "gist"** type reasoning being applied by the Office. The cited portion of column 5 describes device specific APIs including methods with device specific queries. The Office Action characterizes this cited portion with: "In other words, the device specific modules 12a, 12b provides a mapping or translation of the device communication classes and the specific APIs." Accordingly, it is respectfully submitted that the Office has distilled the

related claim recitation down to a general --communication of information-- "gist" **(contrary to MPEP §2141.02 (II))** and overlooks the distinction between the cited subject matter of column 5 and the recitation in claims 26 and 36, which includes that the cited subject matter of column 5 describes custom software providing a mapping service or function and that the subject matter of the subject claims is directed toward a model that provides information that allows a generic software (a device model agent) to customize itself to access information. It is respectfully submitted that this distinction between the cited document and the recitation in the claims means that Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated **by**, for example, **MPEP §2131**. Accordingly, **claims 26 and 36** are rejected based on clear errors and withdrawal of the rejections is respectfully requested.

With apparent regard to arguments from near the top of page 5 of Response H submitting that Hand does not disclose a device model agent is operative to read the interchangeable device model, the Office Action asserts that "Hand discloses the methods of classes are called in order to access data from the devices." Subsequently, the Office Action asserts "accessing information or data from other devices simply means reading the information about the device which can include reading the device model."

It is respectfully submitted that this last assertion is tantamount to an admission that Hand does not actually disclose a device model agent **reading** a device model. Even if the method or system of Hand could hypothetically include reading a device model (which is disputed), it is respectfully submitted that Hand **does not disclose**, or even suggest that a device model agent reads a device model. **Accordingly**, Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated **by**, for example, **MPEP §2131**. Accordingly, **claims 26 and 36** are rejected based on clear errors and withdrawal of the rejections is respectfully requested.

Next, at about the middle of page 12, the "Response to Arguments" applies **impermissible "gist"** type reasoning to downplay the recitation in the claims that indicates the at least one device model agent is operative to **read the** interchangeable

device **model** and access information in the at least one respective unit and to provide information to the at least one respective unit **according to the interchangeable device model**. Indeed, the Office Action stipulates that Hand **does not disclose** this particular aspect.

**However**, the Office Action asserts Hand does disclose accessing information and providing information and implies that this is close enough. It is respectfully submitted that this is **not** close enough and this lies at the heart of a significant distinction between the cited document and what is recited in the claims. **The cited document requires custom software for each device** that, presumably, includes access information hardcoded into the software. In contrast, the present application proposes in claims the device model agent that can read customizing information from a device model and configures itself, or operates according to that read information, thereby eliminating the need for the custom software that the cited document clearly indicates is required according to the systems and methods of Hand (cited column 5, lines 10 – 13). Accordingly, Hand does not disclose **every** element of the claims **"arranged as required by the claim"**, as is required for a claim to be anticipated by, for example, **MPEP §2131**. Accordingly, **claims 26 and 36** are rejected based on **clear errors** and withdrawal of the rejections is respectfully requested.

In the paragraph beginning at the bottom of page 12, the Office Action mischaracterizes arguments presented at the bottom of page 5 and top of page 6 of Response H. Those arguments point out that the cited portions discuss two different aspects of the system of Hand. Cited reference number 2 of Fig. 1 depicts the CIMOM of Hand, whereas the cited portion of column 6 discusses the **CIM provider** of Hand. **Accordingly**, Response H argues the cited portion of column 6 provides no support for any assertion of the Office Action regarding the CIMOM of Hand.

With regard to arguments related to the failure of Hand to disclose the CIMOM exchanges information with at least one respective **device model agent** over the at least one communication link, the response to arguments submits that the CIMOM of Hand is said to communicate with clients and further asserts that cited portions of column 3 indicates the clients may use a browser for communication and other purposes.

First, it is noted that the citation to column 3 in regard to this rejection is new. Therefore, this "Response to Arguments" amounts to a new ground of rejection, which was not necessitated by the Applicants' amendment or information disclosure, and means that the **finality of the present Office Action is premature**. Accordingly, withdrawal of the finality is respectfully requested.

Second, it is respectfully submitted that an indication that the CIMOM communicates with clients **does not disclose** that the CIMOM is operative to exchange information with at least one respective device model agent. Accordingly, Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated **by**, for example, **MPEP §2131**. Accordingly, **claims 26 and 36** are rejected based on clear errors and withdrawal of the rejections is respectfully requested.

Still further, the Office Action **completely overlooks** arguments related to the particular kinds of information recited, for example, in **claim 36**. It is respectfully submitted that the cited portion of **does not** refer to unit billing meter configuration parameters, billing meter readings, unit document processor consumables supply information, available document processor functions that can be added to the unit, selected document processor functions to be added to the unit or selected document processor functions to be deleted from the capabilities of the unit. Accordingly, again, the **finality** of the present Office Action is **premature (MPEP §707.07(f); §707.07)** and Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated **by**, for example, **MPEP §2131**. Accordingly, **claims 26 and 36** are rejected based on clear errors and withdrawal of the rejections is respectfully requested.

Pages 6 and 7 of Response H traversed the assertion of the Office Action that reference numerals 10a – 10n of Fig. 1 disclose at least one respective copy of the device model agent, in regard to **claims 27 and 37**. For example, pages 6 and 7 discuss portions of Hand that at least imply that CIM providers 10a – 10n **are different** for different devices (i.e., **not** copies of the same agent). The present Office Action **does not answer the substance of these traversals**. Instead, the "Response to Arguments" simply asserts that the Examiner believes the CIM providers 10a – 10b are

configured to perform similar tasks and are adapted to perform same functions therefore, one easily can replace the other. Accordingly, again, the **finality** of the present Office Action is **premature (MPEP §707.07(f); §707.07)**. Furthermore, it is noted that even the asserted beliefs of the Examiner false short of an assertion that the CIM providers are copies of one another.

Accordingly, Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated **by**, for example, **MPEP §2131**. Accordingly, **claims 27 and 37** are rejected based on clear errors and withdrawal of the rejections is respectfully requested.

Pages 7 and 8 of Response H include at least 5 arguments in support of **claims 28 and 38**. It is respectfully submitted that the Office Action can only be construed as taking note of and answering the substance of one of these arguments. Accordingly, the **Office Action is not complete** as to all matters and the **finality** of the present Office Action is **premature (MPEP §707.07(f); §707.07)**. Accordingly, withdrawal thereof is respectfully requested.

For example, the Office Action does not answer the substance of 1) the assertion that while the cited portion includes the word "status", it **does not disclose** at least one services provider that is operative to exchange information with the services host. Additionally, the Office Action does not answer the substance of 2) the assertion that the cited portion **does not disclose** a services provider operative to provide updated software, software upgrades, billing services maintenance services or repair services **according to** (or in response to) unit status information, selected upgrade information, requested update information, an error message or service request information. Still further, the Office Action does not answer the substance of 3) the assertion that the Office Action did not identify a discussion of a services provider communicating with the CIMOM that the Office found analogous to the recited services host server. Still yet further, the Office Action does not answer the substance of 4) the assertion that the cited portion of column 6 is a discussion of the methods of a PropertyChangeListener class and that Hand **does not disclose** that the PropertyChangeListener class communicates with the CIMOM that the Office found analogous to the recited services host server. It is for these reasons that it is

respectfully submitted that the Office Action is not complete as to all matters, that the **finality** of the present Office Action is **premature (MPEP §707.07(f); §707.07)** and withdrawal thereof is respectfully requested.

As indicated above, the Office Action does take note of one assertion presented in the previous paper in support of **claims 28 and 38**. The Office Action addresses the assertion that the cited portions of Hand do not disclose a services provider operative to provide at least one of updated software, software upgrades, billing services, maintenance services and repair services. **However, the Office Action falls short of asserting** and supporting an assertion that Hand discloses such a services provider.

**Rather than identify a portion** of the system of Hand that is analogous to a service provider and that provides updated software, software upgrades, billing services, maintenance services or repair services, **the Office Action simply submits** that Hand discloses that the PropertyChangeListener is used to provide status change information, which can include updating information on a device. It is respectfully submitted that the failure of the Office to identify an analog to the specific recitation in **claims 28 and 38** is clear evidence that the Office is applying impermissible "gist" type reasoning and overlooking the "as a whole" requirement and that Hand does not anticipate **claims 28 and 38**.

In apparent recognition that the response of the Office Action does not support an allegation of anticipation, on page 13, the "Response to Arguments" submits "that providing services such as updating or upgrading software, providing billing services, etc. by the service provider are well known in the art and cannot be considered as an inventive concept." It is respectfully submitted that rather than supporting an allegation of anticipation, the subject submission appears to be an allegation of obviousness. It is respectfully submitted that an allegation of obviousness would be **a new ground of rejection** and of **claims 28 and 38** are now intended to be rejected on the basis of this new ground of rejection, which was not necessitated by an amendment to the claims or the submission of an information disclosure statement, then the **finality** of the present Office Action **must be withdrawn** and a new non-final Office Action clearly making such a rejection must be issued.



For at least the foregoing additional reasons, Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated by, for example, **MPEP §2131**. Accordingly, **claims 28 and 38** are rejected based on clear errors and withdrawal of the rejections is respectfully requested.

With regard to **claims 29 and 39**, the "Response to Arguments" asserts that the cited sentence at the bottom of column 4 indicates that the CIM clients and CIM providers may be implemented on different computing devices or executed on the same computer device and that this is a disclosure of at least one respective device model agent being at least one of: implemented as a process included in the at least one respective unit (e.g., device 6a or device 6b of Hand according to the analogy of the Office Action) and implemented within a physical add-on module that is connected to the respective at least one unit. **However**, it is respectfully submitted that nothing in Hand remotely makes even a suggestion along these lines.

**Indeed**, the very next two sentences (column 4, line 67 – column 5, line 9) of Hand provide a list of possible locations for these elements of Hand and none of the identified locations are or remotely suggest that the CIM clients or providers be included on the device 6 of Hand. **Instead**, the suggested locations include "a server, workstation, desktop computer, portable computer, handheld computer, telephony device, etc." Indeed, the demands on the CIM providers are so high that in certain implementations, the CIM providers "are implemented on **a separate server class computer** in order to handle information requests from various CIM clients."

In this regard, the Office is again reminded that "to anticipate a claim, the reference must teach every element of the claim" and "the elements must be arranged as required by the claim" (**MPEP §2131**). Clearly, even if the CIM providers of Hand could be construed to be analogous to the recited a device model agent (which is disputed), Hand **does not disclose** or even suggest that the CIM providers be included in or on the devices 6 of Hand that the Office finds analogous to the recited "unit" of **claims 29 and 39**. Accordingly, it can only be **impermissible hindsight reasoning** based on information gleaned only from the present application, contrary to MPEP

**§2142**, that led the Office to misinterpret Hand as the Office has done in an attempt to justify the rejection of **claims 29 and 39**.

For at least the foregoing additional reasons, Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated by, for example, **MPEP §2131**. Accordingly, claims 29 and 39 are rejected based on **clear errors** and withdrawal of the rejections is respectfully requested.

With regard to **claims 30 and 40**, the "Response to Arguments" cites column 4, lines 1 – 7 of Hand. However, the cited portion broadly explains that the CIMOM of Hand processes requests from clients and then interfaces with CIM providers, which in turn obtain the requested device specific information or perform the device related operations and return any obtained information to the CIMOM. The Office takes this broad explanation as justification for an assertion that the CIM provider of Hand, which other portions of the Office Action find analogous to the recited a device model agent, "**can be the application server**" and further asserts that the CIM provider "**can** obtain or receive the requested device specific information or perform the device related operations".

First, it is respectfully submitted that the application server of, for example, **claim 40** is a different element than the recited a device model agent. That the Office relies on the same element of Hand as the analog for **both the device model agent and the application server** of **claim 40** is clear evidence that Hand **does not** disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated by, for example, **MPEP §2131**. The continued assertion to the contrary of the Office is a **clear error**.

Second, it is respectfully submitted that **MPEP §2131** indicates that for a claim to be anticipated "the identical invention must be shown in as complete detail as is contained in the ... claim." It is respectfully submitted that the assertion of the Office Action that the CIM provider "**can be the application server**" is conjecture on the part of the Office, based on **impermissible hindsight** reasoning, and is not based on any disclosure in Hand that the CIM provider is operative to receive application software

modules from at least one services provider or to perform any of the other functions attributed to the application server recited, for example, **in claim 40**.

For at least the foregoing additional reasons, Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated by, for example, **MPEP §2131**. Accordingly, **claims 30 and 40** are rejected based on clear errors and withdrawal of the rejections is respectfully requested.

In apparent recognition that the response of the Office Action does not support an allegation of anticipation, on page 14, the "Response to Arguments" asserts that "the fact that the application server is being operative to make software application modules available for transmission to and install a respective device model agent is known in the art and is not being considered as an inventive concept."

It is respectfully submitted that rather than supporting an allegation of anticipation, the subject assertion appears to be an allegation of obviousness. It is respectfully submitted that an allegation of obviousness would be **a new ground of rejection**. If **claims 30 and 40** are now intended to be rejected on the basis of this new ground of rejection, which was not necessitated by an amendment to the claims or the submission of an Information Disclosure Statement, then the **finality** of the present Office Action **must be withdrawn** and a new non-final Office Action clearly making such a rejection must be issued.

For at least the foregoing additional reasons, Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated by, for example, **MPEP §2131**. Accordingly, **claims 30 and 40** are rejected based on clear errors and withdrawal of the rejections is respectfully requested.

The portion of the "Response to Arguments" directed toward arguments submitted in support of claims 32 and 42 includes no citation to any portion of Hand and provides no support for the allegations included in the response. Additionally, rather than addressing the subject matter of the claims, the Office Action submits that Hand discloses that vendors may code specific APIs which include methods having device specific commands and that the device specific commands "**can**" include commands

and information regarding how the communication is to take place and how and which type of communication means is available in the system in order to be able to communicate with the device.

It is respectfully submitted that even if these submissions were correct (which is disputed), the submissions with regard to what the commands "can" include are **impermissible hindsight-based speculation** on the part of the Examiner, which find no support in the specification.

Moreover, the submissions about what the commands "can" include have little or no bearing on the subject matter recited in, for example, **claim 42**, which recites an application programming interface that is operative to determine which means of communications are available to the application programming interface, to select one or more communication means from the available communication means **and to communicate** with the at least one other system element according to one or more protocol that is appropriate to the one or more selected communications means.

For at least the foregoing additional reasons, Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated by, for example, **MPEP §2131**. Accordingly, **claims 32 and 42** are rejected based on clear errors and withdrawal of the rejections is respectfully requested.

It is respectfully submitted that rather than supporting an allegation of anticipation, the subject assertions about what the commands "can" include appears to be an allegation of obviousness. It is respectfully submitted that an allegation of obviousness would be **a new ground of rejection**. If **claims 32 and 42** are now intended to be rejected on the basis of this **new ground of rejection**, which was not necessitated by an amendment to the claims or the submission of an Information Disclosure Statement, then the **finality** of the present Office Action **must be withdrawn** and a new non-final Office Action clearly making such a rejection must be issued.

For at least the foregoing additional reasons, Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated by, for example, **MPEP §2131**. Accordingly, **claims 32 and 42** are

rejected based on clear errors and withdrawal of the rejections is respectfully requested.

With regard to **claims 33 and 43**, the "Response to Arguments" asserts that Hand shows a transport mechanism such as TCP and an application protocol such as HTTP to communicate with the CIM clients. However, it is respectfully submitted that this assertion is nonresponsive. The arguments submitted in support of **claims 33 and 43** point out that while the cited portion mentions HTTP, it does so in the context of discussing a transport mechanism implemented **by the CIMOM 2** to communicate with the **CIM clients** and not in regard to an application programming interface and **claims 33 and 43** recite protocols for communication mechanisms supported by the application programming interface.

For at least the foregoing additional reasons, Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated by, for example, **MPEP §2131**. Accordingly, **claims 33 and 43** are rejected based on clear errors and withdrawal of the rejections is respectfully requested.

With regard to **claims 34 and 44**, the "Response to Arguments" does not take note of, or answer the substance of, the argument bridging pages 11 and 12 of applicants Response H that the cited portion of Hand does not disclose, or even suggest, that a device model agent is operative to start or stop a service or add a new service to a device model agent or that the added new service is received from an application server. Accordingly, again, the **finality** of the present Office Action is **premature (MPEP §707.07(f); §707.07)**.

Furthermore, it is respectfully submitted that the Office does not answer this argument because the Office has no answer for this argument. In comparing the claimed subject matter to the cited document, the Office Action is distilling the claimed subject matter **impermissibly down to a "gist"** and/or interpreting the cited document based on **impermissible hindsight reasoning** and information gleaned only from the present application.

For at least the foregoing additional reasons, Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to

be anticipated by, for example, **MPEP §2131**. Accordingly, **claims 34 and 44** are rejected based on clear errors and withdrawal of the rejections is respectfully requested.

With regard to claim 35, the "Response to Arguments" alleges that "any device that have the capability of displaying an image and/or process the image to be displays can be considered as an image processing device." **However**, even if this assertion were true (which is disputed) the "Response to Arguments" provides no citation to any portion of Hand that indicates that the device 6 of Hand, which the Office finds analogous to the recited "unit" of, for example, **claim 35**, has the capability of displaying an image or processing an image to be displayed. Accordingly, it is respectfully submitted that Hand does not disclose or anticipate the system of **claim 26** wherein the at least one respective unit comprises an image processing device, as is recited in **claim 35**.

For at least the foregoing additional reasons, Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated by, for example, **MPEP §2131**. Accordingly, **claim 35** is rejected based on clear errors and withdrawal of the rejections is respectfully requested.

#### **The Finality of the Office Action is Premature**

It is respectfully submitted that contrary to MPEP §707.07(f), the Office Action of November 16, 2011 is incomplete in that it includes repeated rejections without taking note of and answering the substance of all of Applicants arguments regarding those rejections. Additionally, due in part to this incompleteness, the clear issues that MPEP §706.07 indicates should be developed between the Examiner and Applicant were not developed before the final rejection. Accordingly, final rejection is not in order and supervisory review and withdrawal of the finality of the Office Action of November 16, 2011 is requested.

The Applicants hope and believe that a careful consideration of all of the presented arguments will help the Office understand the significant differences between the claimed subject matter and that described in the cited documents.

MPEP §707 indicates that 37 CFR §104(b) requires that, "the Examiner's Action

**will be complete as to all matters**, except that in appropriate circumstances, such as misjoinder of invention, fundamental defects in the application, and the like, the Action of the Examiner may be limited to such matters before further Action is made."

Additionally, MPEP §707.07(f) indicates that, "where the Applicant traverses any rejection, the Examiner should, if he or she repeats the rejection, take note of the Applicant's argument **and answer the substance of it.**"

Additionally, MPEP §706.07(a) indicates that, "under present practice, second or any subsequent actions on the merits shall be made final, **except where the Examiner introduces a new ground of rejection** that is neither necessitated by Applicant's amendment of the claims, nor based on information submitted in an Information Disclosure Statement filed during the period set forth in 37 CFR §1.97(c)."

It is respectfully submitted that the present Office Action does not answer the substance of at least some to the traversals presented by the Applicants and that the Response to Arguments portion of the Office Action attempts to introduce new grounds of rejection. Accordingly, the finality of the present Office Action is premature.

For example, with regard to arguments related to the failure of Hand to disclose the CIMOM exchanges information with at least one respective **device model agent** over the at least one communication link, the "Response to Arguments" portion of the Office Action submits that the CIMOM of Hand is said to communicate with clients and further asserts that cited portions of column 3 indicates the clients may use a browser for communication and other purposes.

It is noted that the citation to column 3 in regard to this rejection is new. Therefore, this "Response to Arguments" amounts to a new ground of rejection, which was not necessitated by the applicants' amendment or Information Disclosure, and means that the **finality of the present Office Action is premature**. Accordingly, withdrawal of the finality is respectfully requested.

Still further, the Office Action **overlooks** arguments related to the particular kinds of information recited, for example, in **claim 36**. It was submitted that the cited portion **does not** refer to unit billing meter configuration parameters, billing meter readings, unit document processor consumables supply information, available document processor functions that can be added to the unit, selected document processor functions to be

added to the unit or selected document processor functions to be deleted from the capabilities of the unit. Accordingly, again, the **finality** of the present Office Action is **premature (MPEP §707.07(f); §707.07)**.

Pages 7 and 8 of Response H, which was filed by the Applicants on or about September 7, 2011, include at least 5 arguments in support of **claims 28 and 38**. It is respectfully submitted that the Office Action can only be construed as taking note of and answering the substance of one of these arguments. Accordingly, the **Office Action is not complete** as to all matters and the **finality** of the present Office Action is **premature (MPEP §707.07(f); §707.07)**. Accordingly, withdrawal thereof is respectfully requested.

For example, the Office Action **does not answer the substance of 1)** the assertion that while the cited portion includes the word "status", it **does not disclose** at least one **services provider** that is operative to **exchange information with the services host**. Additionally, the Office Action **does not answer the substance of 2)** the assertion that the cited portion **does not disclose** a services provider operative to provide updated software, software upgrades, billing services maintenance services or repair services **according to** (or in response to) unit status information, selected upgrade information, requested update information, an error message or service request information. Still further, the Office Action **does not answer the substance of 3)** the assertion that the Office Action did not identify a discussion of a services provider communicating with the CIMOM that the Office found analogous to the recited services host server. Still yet further, the Office Action **does not answer the substance of 4)** the assertion that the cited portion of column 6 is a discussion of the methods of a PropertyChangeListener class and that Hand **does not disclose** that the PropertyChangeListener class communicates with the CIMOM that the Office found analogous to the recited services host server. It is for at least these reasons that it is respectfully submitted that the Office Action is not complete as to all matters, that the **finality** of the present Office Action is **premature (MPEP §707.07(f); §707.07)** and withdrawal thereof is respectfully requested.

In apparent recognition that the response of the Office Action does not support an allegation of anticipation with regard to **claims 28 and 38**, on page 13, the



"Response to Arguments" submits "that providing services such as updating or upgrading software, providing billing services, etc. by the service provider are well known in the art and cannot be considered as an inventive concept." It is respectfully submitted that rather than supporting an allegation of anticipation, the subject submission appears to be an allegation of obviousness. It is respectfully submitted that an allegation of obviousness would be **a new ground of rejection** and if **claims 28 and 38** are now intended to be rejected on the basis of this new ground of rejection, which was not necessitated by an amendment to the claims or the submission of an Information Disclosure Statement, then the **finality** of the present Office Action **must be withdrawn** and a new non-final Office Action clearly making such a rejection must be issued.

In apparent recognition that the response of the Office Action does not support an allegation of anticipation with regard to **claims 30 and 40**, on page 14, the "Response to Arguments" asserts that "the fact that the application server is being operative to make software application modules available for transmission to and install on a respective device model agent is known in the art and is not being considered as an inventive concept."

It is respectfully submitted that rather than supporting an allegation of anticipation, the subject assertion appears to be an allegation of obviousness. It is respectfully submitted that an allegation of obviousness would be **a new ground of rejection.** Accordingly, it is respectfully submitted that if **claims 30 and 40** are now intended to be rejected on the basis of this new ground of rejection, which was not necessitated by an amendment to the claims or the submission of an Information Disclosure Statement, then the **finality** of the present Office Action **must be withdrawn** and a new non-final Office Action clearly making such a rejection must be issued.

Similarly, it is respectfully submitted that assertions made on page 15 of the Office Action in regard to **claims 32 and 42**, about what the commands of Hand "can" include appear to be an allegation of obviousness. It is respectfully submitted that an allegation of obviousness would be **a new ground of rejection.** Accordingly, it is respectfully submitted that if **claims 32 and 42** are now intended to be rejected on the basis of this **new ground of rejection**, which was not necessitated by an amendment

to the claims or the submission of an Information Disclosure Statement, then the **finality** of the present Office Action **must be withdrawn** and a new non-final Office Action clearly making such a rejection must be issued.

With regard to **claims 34 and 44**, the "Response to Arguments" does not take note of, or answer the substance of, the argument bridging pages 11 and 12 of applicants Response H that the cited portion of Hand does not disclose, or even suggest, that a device model agent is operative to start or stop a service or add a new service to a device model agent or that the added new service is received from an application server. Accordingly, again, the **finality** of the present Office Action is **premature (MPEP §707.07(f); §707.07)** and withdrawal thereof is respectfully requested.

#### **The Claims Are Not Anticipated**

**Claims 26 – 44** were rejected under 35 USC §102(e) as allegedly being anticipated by Hand.

In this regard, the Office is reminded that **MPEP §2131** indicates that for a claim to be anticipated "the identical invention must be shown in as complete detail as is contained in the ... claim."

With regard to the recitation in **claim 26** and **36** indicating that an interchangeable device model... includes... **identifications** of classes of information... and **mappings** indicating how the classes of information can be communicated to and/or from the first product, the Office Action cites column 4, lines 31 – 40 of Hand.

It is respectfully submitted that the citation represents a **clear error** of the Office Action, as the cited portion clearly does not support the assertion that Hand discloses or anticipates the recited subject matter. Instead, cited portion of column 4 of Hand indicates that a CIM provider instantiates instances of classes implemented by device specific modules and calls methods from such classes to access data from the devices. It is submitted that this is a reference to the Object Oriented Programming use of the word "classes" and does not disclose **identifications of classes of information**.

Instead of simply providing a model providing device specific information such as the identifications of classes and mappings recited in **claim 26**, the methods and

systems of Hand require that custom **code** be provided, instances of which are "**instantiated**" and methods of which are "**called**".

The Office Action goes on to cite column 5, lines 18 – 21 and asserts that the device specific modules of Hand provide "the mappings or translation of the device communication classes and device specific APIs." However, it is respectfully submitted that here, the Office is clearly applying **impermissible hindsight reasoning (MPEP §2142)** and over interpreting the cited portion of Hand or applying **impermissible "gist" (MPEP §2141.02 (II))** type reasoning and overlooking the actual recitation in **claims 26 and 36**. **Claims 26 and 36 do not recite** that the interchangeable device model provides a mapping function or service. Instead, for example, **claim 26** recites that the model includes mappings indicating how the classes of information (not object oriented programming classes) can be communicated to or from the first product. Again, where Hand requires customized code (e.g., device specific APIs) the methods and systems of the present application, in the recited models, **provide information** that allows device model agent code to customize itself to each new device and in this way, to be reused through, for example, reconfiguration or adaptation based on the provided information.

For at least the foregoing reasons, **claim 26**, as well as **claims 27 – 35**, which depend therefrom, and **claim 36**, as well as **claim 37-44**, which depend therefrom, are not anticipated by Hand.

With regard to the recitation in **claims 26 and 36** related to at least one respective device model agent, the Office Action again makes citations and assertions that make it clear that the Office is applying **impermissible "gist"** type reasoning contrary to **MPEP §2141.02 (II)**. It is respectfully submitted that this is a **clear error** of the Office Action.

For example, with regard to recitation indicating that the at least one respective device model agent is **operative to read** the interchangeable device model and access information in the at least one respective unit, the Office Action cites column 4, lines 31 – 40 of Hand and characterizes the cited portion with "where the CIM provider calls methods from classes to access data from the devices." In this regard, it is respectfully submitted that discussion of **calling the methods** from classes does not disclose

**reading** an interchangeable device model or that at least one respective device model agent is **operative to read** an interchangeable device model.

Moreover, the subject claims further recite that the respective device model agent is operative to provide information to the at least one respective unit **according to the interchangeable device model**. It is respectfully submitted that column 4, lines 4 – 7, which the Office Action cites in this regard, does not disclose or suggest that a device model agent provides information to a unit "according to an interchangeable device model that is "read" by the device model agent. It is respectfully submitted that it is only in impermissible hindsight and with **impermissible "gist type reasoning**, contrary to both MPEP §2142 and MPEP §2141.02 (II) that one could interpret the cited portion is making such a disclosure.

For at least the foregoing additional reasons, **claim 26**, as well as **claims 27 – 35**, which depend therefrom, and **claim 36**, as well as **claim 37-44**, which depend therefrom, are not anticipated by Hand.

With regard to the recitation in, for example, **claim 26** of a services host server, the Office Action cites the "Common Information Model Object Manager" depicted at reference number 2 of Fig. 1 and cites column 6, lines 8 – 25 in an effort to support the assertion that the CIMOM 2 has the recited characteristics of the services host server. **However**, the cited portion of column 6 discusses Actions of the CIM provider 10 of Hand and **does not disclose or suggest** that the CIMOM 2 of Hand is operative to exchange information with the at least one respective device model agent (or any alleged analog thereto in Hand) over the at least one communication link, the exchanged information including at least one of: the unit configuration parameters, the unit status information, the available upgrade information, the selected upgrade information, the selected downgrade information, the available update information, the requested update information, the error information or the serviced request information as is recited, for example, in **claim 26**.

It is respectfully submitted that even if Hand discusses a system and method for communicating similar kinds of information as those discussed in the present application, **Hand describes different** systems and methods for doing so. It is only

with impermissible "gist" type reasoning that the Office sees a similarity between the methods and systems of Hand and those of the present application.

For at least the foregoing additional reasons, **claim 26**, as well as **claims 27 – 35**, which depend therefrom, and **claim 36**, as well as **claim 37-44**, which depend therefrom, are not anticipated by Hand.

With regard to **claims 27 and 37** and the recitation related to – – at least one respective copy of the device model agent-- the Office Action cites Fig. 1 and reference numerals 10a – 10n.

However, Hand provides no indication that the CIM providers 10a – 10n are copies of one another. Quite to the contrary, Hand indicates that the providers may be different. For example, column 4, lines 18 – 28 indicates that "each CIM provider 10a, 10b ... 10n may implement one of the following CIM provider interfaces in a manner known in the art" and then describes various different interfaces. Accordingly, Hand does not disclose or suggest that the CIM providers are copies of one another.

Still further, Hand indicates that the CIM providers are different from one another throughout the document. For instance, at column 5, lines 10 – 13, Hand indicates that **each vendor of a device** wanting to participate in the CIM architecture would have to write code implementing the device communication (**DevComm**) classes. At column 5, lines 48 – 51, Hand indicates that the CIM provider receives a request from the CIMOM and then constructs a DC properties instance to provide to a **DevComm** 52 instance for a particular device. Accordingly, it is respectfully submitted that the **CIM providers** include **custom code** for each different device and are not copies of one another.

Hand reiterates this, for example, at column 10, lines 22 – 28 by asserting that "a **device vendor** to participate in the WBEM framework "only has to code" a **limited number of methods** of a DevComm class that provides an interface to device specific APIs to perform device specific operations. The DevComm() class may be used by CIM providers to access device specific operations and obtain device specific information.

Therefore, contrary to the assertions of the Office Action, the cited portions of Fig. 1 and column 4 do not disclose that the CIM providers of Hand are copies of one

another. Moreover, it is respectfully submitted that Hand provides every indication that the CIM providers use **device specific code** referred to as a DevComm() class.

Accordingly, it is respectfully submitted that only an interpretation of Hand based on **impermissible hindsight** and/or **impermissible "gist"** reasoning would lead one to the conclusions reached by the Office Action.

For at least the foregoing additional reasons, **claims 27** and **37** are not anticipated by Hand. Still further, arguments similar to those submitted in support of **claims 26** and **36**, where applicable, are submitted in support of **claims 27** and **37**.

With regard to **claims 28** and **38**, the Office Action cites column 6, lines 8 – 25. However, while the cited portion includes the word "status", it is respectfully submitted the cited portion **does not disclose** at least one a **services provider** that is operative to exchange information with a **services host** over at least one communications link. Furthermore, the cited portion **does not disclose** a **services provider** operative to provide at least one of updated software, software upgrades, billing services, maintenance services and repair services. Still yet further, the cited portion **does not disclose** a services provider operative to provide at least one of the foregoing **according to**, based on or in response to, at least one of unit status information, selected upgrade information, requested update information, an error message and service request information received from the at least one unit.

As evidence of this, it is noted that the explanation of the rejection **does not identify any device that the Office considers to be analogous** to the recited services provider. Furthermore, **the Office does not identify** a discussion of such a services provider communicating with the Common Information Model Object Manager (CIMOM) that the Office found analogous to the recited services host server in the discussion of **claim 26** and **36**.

Still yet further, the cited portion of column 6 is a discussion of the methods of a PropertyChangeListener class. It is respectfully submitted that Hand **does not disclose** that the PropertyChangeListener class communicates **with the** Common Information Model Object Manager (CIMOM) that the Office found analogous to the recited services host server. **Accordingly**, any effort to suggest that the PropertyChangeListener class of Hand is analogous to the recited services provider of

**claims 28 and 38** fails because Hand **does not disclose** that the PropertyChangeListener class is operative to exchange information with a services host or even the CIMOM of Hand over at least one communications link.

For at least the foregoing additional reasons, **claims 28 and 38** are not anticipated by Hand.

It is submitted that the explanation of the rejections of **claims 29 and 39** represents a clear error of the Office Action.

For instance, in an effort to justify the rejection of **claims 29 and 39**, the Office Action cites column 4, lines 65 – 68 and characterizes that portion as indicating "CIM providers may be implemented on different computing devices or executed on the same computing devices." However, **claims 29 and 39** recite "wherein the at least one respective the device model agent is at least one of: implemented as a process included in **the at least one respective unit** and implemented within a physical add-on module that is connected to **the respective at least one unit**. In its rejection of **claim 26**, the Office Action draws an analogy between devices 6a and 6b of Hand and the recited at least one respective unit. Even as characterized by the Office Action, the cited portion of column 4 **does not disclose** that the CIM providers (which the Office finds analogous to the recited a device model agent) are **included in the devices 6a and 6b** or within a **physical add-on module that is connected to the respective devices 6a and 6b**.

For at least the foregoing additional reasons, **claims 29 and 39** are not anticipated by Hand.

Moreover, the **Office Action mischaracterizes the cited portion**. The cited portion of column 4 indicates that the **CIM clients 4a and 4b CIM providers 10a, 10b ... 10n** may be implemented on different computing devices or executed on the same computing device. The cited portion clearly does not disclose that the CIM providers are included in the devices 6A and 6B or within a physical add-on module that is connected to the respective devices 6A and 6B.

For at least the foregoing additional reasons, **claim 30**, as well as **claims 32 and 33**, which depend therefrom and **claim 40** as well as **claims 41 - 43**, which depend therefrom are not anticipated by Hand.

Indeed, the very next two sentences (column 4, line 67 – column 5, line 9) of Hand provide a list of possible locations for these elements of Hand and none of the identified locations remotely suggests that the CIM clients or providers be included on the device 6 of Hand. Instead, the suggested locations include "a server, workstation, desktop computer, portable computer, handheld computer, telephony device, etc." Indeed, the demands on the CIM providers are so high that in certain implementations, the CIM providers "are implemented **on a separate server class computer** in order to handle information requests from various CIM clients."

In this regard, the Office is again reminded that "to anticipate a claim, the reference must teach every element of the claim" and "the elements must be arranged as required by the claim" (**MPEP §2131**). Clearly, even if the CIM providers of Hand could be construed to be analogous to the recited a device model agent (which is disputed), Hand **does not disclose** or even suggest that the CIM providers be included in or on the devices 6 of Hand that the Office finds analogous to the recited "unit" of **claims 29 and 39**. Accordingly, it can only be **impermissible hindsight reasoning** based on information gleaned only from the present application, contrary to MPEP §2142, that led the Office to misinterpret Hand as the Office has done in an attempt to justify the rejection of **claims 29 and 39**.

For at least the foregoing additional reasons, Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated by, for example, **MPEP §2131**. Accordingly, **claims 29 and 39** are rejected based on clear errors and withdrawal of the rejections is respectfully requested.

With regard to **claims 30 and 40**, the Office Action cites the depiction of CIM object manager 2 in Fig. 1 and the discussion at column 4, lines 1 – 7. **However, claims 30 and 40** recite characteristics of an application server.

In the rejections of **claims 26 and 36**, the Office Action previously draws an analogy between the recited services host server and the CIMOM. It is respectfully submitted that the fact that the now Office finds it necessary to cite the CIMOM as allegedly being the analog to the recited application server makes it clear that **Hand does not disclose or anticipate** the subject matter of the present application.



Since the Office is forced to rely on the CIMOM of Hand as the alleged analog to both the recited services host server **and** the recited application server it is clear that Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated by, for example, **MPEP §2131**. Accordingly, **claims 30 and 40** are rejected based on clear errors and withdrawal of the rejections is respectfully requested.

Moreover, even **as characterized by the Office Action**, the cited portion of column 4 discusses the CIMOM processing requests from clients and interfacing with the CIM providers where the providers in turn obtain the requested device specific information or perform the device related operations and return any object information to the CIMOM to return to the clients. It is respectfully submitted that the cited portion and even the characterization provided by the Office Action do not describe **an application server** that is operative to receive application software modules, as is recited in **claims 30 and 40**.

Again, it appears the Office is over interpreting the cited portions based on **impermissible hindsight** and/or **impermissible "gist"** reasoning.

Still further, it is respectfully submitted that the cited portion and even the characterization provided by the Office Action do not describe **an application server** that is operative to receive application software modules from at least one services provider, as is recited in **claims 30 and 40**. In this regard, the Office is reminded that in an effort to explain the rejection of **claims 28 and 30**, by citing column 6, lines 8 – 25, the Office drew analogy between the recited – at least one services provider – and the PropertyChangeListener of Hand. It is respectfully submitted that the cited portion of column 4 **clearly does not disclose** or suggest that the CIMOM of Hand receives application software modules from the PropertyChangeListener of Hand.

Again, it appears the Office is over interpreting the cited portions based on **impermissible hindsight** and/or **impermissible "gist"** reasoning. Clearly, Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated by, for example, **MPEP §2131**. Accordingly, **claims 30 and 40** are rejected based on clear errors and withdrawal of the rejections is respectfully requested.

It is respectfully submitted that the cited portion and even the characterization provided by the Office Action do not disclose **an application server** that is operative to make software application modules available for transmission to and installation in the at least one respective device model agent, as is recited in **claims 30 and 40**. Clarification of this assertion is respectfully requested.

For at least the foregoing additional reasons, **claim 30**, as well as **claims 32 and 33**, which depend therefrom, and **claim 40** as well as **claims 41-43**, which depend therefrom, are not anticipated by Hand.

**Claims 31 and 41** depend from **claims 26 and 40** respectively and are not anticipated by Hand for at least that reason.

With regard to **claims 32 and 42**, the Office Action cites column 5, lines 14 – 18. However, even as characterized by the Office Action, the cited portion indicates that vendors may **code device specific APIs** which include methods having **device specific commands** to query the devices for information. The Office Action alleges that the methods can include the methods or means of communicating with the devices.

**However**, none of this forms a reasonable basis for rejecting **claims 32 and 42**, which recite aspects related to an application programming interface that is **operative to determine which means of communications are available** to the application programming interface, **to select** one or more communication means from the available communication means for communicating with at least one other system element, and **to communicate with the at least one other system element** according to one or more protocol that is appropriate to the one or more select indication means, as is recited, for example, in **claim 32**.

While the cited portion mentions APIs, the cited portion **clearly does not** support an assertion that Hand discloses an API operative to determine which means of communications are available. Furthermore, the cited portion **clearly does not** support an assertion that Hand discloses an API operative to select one or more communication means from the determined available communication means.

For at least the foregoing additional reasons, **claim 32**, as well as **claim 33**, which depends therefrom, and **claim 42**, as well as **claim 43**, which depends therefrom, are not anticipated by Hand.

With regard to **claims 33 and 43**, the Office Action cites column 3, lines 60 – 64. However, while the cited portion mentions HTTP, it does so in the context of discussing a transport mechanism implemented by the CIMOM 2 to communicate with the CIM clients 4a and 4b and not in regard to an application programming interface and **claims 33 and 43** recite protocols or communication mechanisms supported by the application programming interface.

For at least the foregoing additional reasons, **claims 33 and 43** are not anticipated by Hand.

It is respectfully submitted that the rejections of **claims 34 and 44** are based on clear error.

For example, **claim 34** recites *inter alia*: wherein the device model agent is further operative to at least one of: add a new service received from an applications server to a device model agent, start a service running and stop the service.

In this regard, the Office Action cites column 1, lines 60 – 64, and characterizes that portion as describing the starting and stopping of service or addition of resources to a monitored device. **However, the cited portion is part of a description of the background of the invention, is unrelated to any component of the system of Hand does not describe** functions or abilities of a device model agent.

Instead, the cited portion is from a discussion indicating that an event is typically assumed to be a change in the state of the device environment or a record of the behavior of some component of the environment. While the cited portion indicates that examples of events include the starting or stopping of a service, addition of resources to a monitored device, the occurrence of a pervasive incident, state change requiring immediate attention, such as being low on disk space, etc., **the cited portion does not disclose** or suggest that a device model agent is operative to start or stop a service or add a new service to a device model agent or that the added new service is received **from an application server**.

Again, it appears the Office is over interpreting the cited portions based on **impermissible hindsight and/or impermissible "gist" type reasoning** and Hand does not disclose **every** element of the claims "arranged as required by the claim", **as is required** for a claim to be anticipated by, for example, **MPEP §2131**. Accordingly,

**claims 34 and 44** are rejected based on **clear errors** and withdrawal of the rejections is respectfully requested.

For at least the foregoing additional reasons, **claim 34** and **claim 44** are not anticipated by Hand.

With regard to **claim 35**, the Office Action cites column 5, lines 1 – 5. However, **claim 35** recites *inter alia*: wherein the at least one respective unit comprises: an image processing device. In this regard, the Office is reminded that **the analog identified by the Office** for the recited at least one respective unit are the devices 6a and 6b of Hand, whereas the cited portion of column 5 discusses the CIM clients 4A and 4B and the CIM providers 10a ... 10n (i.e., not the devices 6a and 6b). Accordingly, the rejection of **claim 35** is based on **clear error**. The cited portion cannot and does not disclose the at least one respective unit or even the device of Hand comprises: an image processing device.

#### **Telephone Interview**

In the interest of advancing this application to issue, the Examiner is invited to telephone the undersigned to discuss the foregoing or any suggestions that the Examiner may have a place the case in condition for allowance.

**CONCLUSION**

**Claims 26 – 44** remain in the application. For the reasons detailed above, it is submitted all remaining **claims 26 – 44** are in condition for allowance. Accordingly, an early indication thereof is respectfully requested.

☒ Remaining Claims, as delineated below:

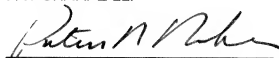
(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT LESS HIGHEST NUMBER PREVIOUSLY PAID FOR		(3) NUMBER EXTRA
TOTAL CLAIMS	19	- 25 =	0
INDEPENDENT CLAIMS	2	- 4 =	0

☒ This is an authorization under 37 CFR 1.136(a)(3) to treat any concurrent or future reply, requiring a petition for extension of time, as incorporating a petition for the appropriate extension of time.

☒ The Commissioner is hereby authorized to charge any filing or prosecution fees which may be required, under 37 CFR 1.16, 1.17, and 1.21 (but not 1.18), or to credit any overpayment, to Deposit Account 24-0037.

Respectfully submitted,

FAY SHARPE LLP



Patrick R. Roche, Reg. No. 29,580  
Thomas Tillander, Reg. No. 47,334  
The Halle Building – Fifth Floor  
1228 Euclid Avenue  
Cleveland, OH 44115  
216-363-9000

12/5/11  
Date